

# In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 14-574V

Filed: October 21, 2014

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LINDA COTHERN,

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Petitioner,

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SECRETARY OF HEALTH  
AND HUMAN SERVICES,

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Respondent.

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Damages Decision Based on Proffer;  
Trivalent Influenza (Flu) Vaccine;  
Shoulder Injury Related to Vaccine  
Administration; SIRVA

## DECISION AWARDING DAMAGES<sup>1</sup>

**Vowell**, Chief Special Master:

On July 7, 2014, Linda Cothorn filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,<sup>2</sup> [the "Vaccine Act" or "Program"]. Petitioner alleged that she suffered a shoulder injury which was caused by the influenza vaccine she received on September 26, 2013. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On October 15, 2014, I issued a ruling on entitlement, finding petitioner entitled to compensation. On October 21, 2014, respondent filed a proffer on award of compensation ("Proffer") indicating petitioner should be awarded \$80,000.00, an amount representing "all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a)." Proffer at 1. According to respondent's Proffer, petitioner agrees to the proposed award of compensation. *Id.* Respondent indicates petitioner is a competent adult and guardianship is not required in this case. *Id.*

<sup>1</sup> Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post it on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all "§" references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2006).

Pursuant to the terms stated in the attached Proffer, I **award petitioner a lump sum payment of \$80,000.00 in the form of a check payable to petitioner, Linda Cothorn.** This amount represents compensation for all damages that would be available under § 300aa-15(a).

The clerk of the court is directed to enter judgment in accordance with this decision.<sup>3</sup>

**s/Denise K. Vowell**  
Denise K. Vowell  
Chief Special Master

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<sup>3</sup> Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by each party filing a notice renouncing the right to seek review.

IN THE UNITED STATES COURT OF FEDERAL CLAIMS  
OFFICE OF SPECIAL MASTERS

LINDA COTHERN,	)	
	)	
	)	
Petitioner,	)	No. 14-574V
	)	Chief Special Master
v.	)	Denise K. Vowell
	)	ECF
SECRETARY OF HEALTH	)	
AND HUMAN SERVICES,	)	
	)	
Respondent.	)	

**RESPONDENT'S PROFFER ON AWARD OF COMPENSATION**

**I. Compensation for Vaccine Injury-Related Items**

Respondent proffers that based on the evidence of record, petitioner should be awarded \$80,000.00. This amount represents all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.

**II. Form of the Award**

The parties recommend that the compensation provided to petitioner should be made through a lump sum payment as described below, and request that the special master's decision and the Court's judgment award the following:<sup>1</sup>

- A. A lump sum payment of \$80,000.00 in the form of a check payable to petitioner, Linda Cothorn. This amount accounts for all elements of compensation under 42 U.S.C. § 300aa-15(a) to which petitioner would be entitled.

Petitioner is a competent adult. Evidence of guardianship is not required in this case.

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<sup>1</sup> Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future medical expenses and future pain and suffering.

Respectfully submitted,

JOYCE R. BRANDA  
Acting Assistant Attorney General

RUPA BHATTACHARYYA  
Director  
Torts Branch, Civil Division

VINCENT J. MATANOSKI  
Deputy Director  
Torts Branch, Civil Division

GLENN A. MACLEOD  
Senior Trial Counsel  
Torts Branch, Civil Division

s/Althea Walker Davis  
ALTHEA WALKER DAVIS  
Senior Trial Counsel  
Torts Branch, Civil Division  
U.S. Department of Justice  
P.O. Box 146  
Benjamin Franklin Station  
Washington, D.C. 20044-0146  
Tel: (202) 616-0515

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